

1 that. What did you understand the term meant to have to be
2 directors -- strike that. Tell me what -- tell me how you
3 would define what it means or what it meant to be a director
4 of NMTV or its predecessor, TTI, when you gave the advice
5 concerning the minority preference?

6 A It would have been an individual who was
7 participating in meetings, and was voting and fulfilling their
8 responsibilities based on discussions at meetings, and was
9 generally directing the affairs and policies of the company.

10 Q Now using as a reference point, Mr. May, the
11 certification filed on February 28th, 1984, am I correct then
12 that you had knowledge in Feb-- on February 28th of 1984 that
13 David Espinoza had carried out his duties as required by the
14 board-- by-laws of the corporation?

15 A Generally speaking, yes, sir. I can't say I knew
16 about everything that David Espinoza did, but I believed he
17 was fulfilling his responsibilities as a director.

18 Q You knew enough to be able to advise Mrs. Duff that
19 she could, she could certify for the minority preference, am I
20 correct?

21 A I told her what the requirement was. I can't say
22 that in my mind was: 'oh, and David, by the way, meets that
23 requirement as well.' I mean I had been -- I mean I knew that
24 David Espinoza went to meetings and that they voted at
25 meetings.

1 Q Is it your testimony that as of the time that you
2 advised Mrs. Duff that she could certify, on February 28th,
3 that you didn't know that David Espinoza was carrying out his
4 duties as provided for in the by-laws?

5 A I generally thought that he was, yes, sir.

6 Q And what was the basis for your opinion that he was
7 carrying out his duties as required by the by-laws?

8 A I had seen documents or been informed that he had
9 participated in directors' meetings, and that he had voted at
10 those meetings. During this period of time, there was very
11 little activity or business of the company, but I generally
12 was aware that he was fulfilling his responsibilities.

13 Q What documents had you seen?

14 A I believe on occasion I may have seen the minutes of
15 the company and, and at this -- I believe in 1984, the
16 directors of Translator TV were meeting in a large fellowship
17 kind of gathering that also included their board of directors
18 meeting, and it was also the board of directors meeting of the
19 Trinity Broadcasting Network and, and some other companies.
20 And it's in that context that I either observed or, or saw
21 minutes in which he was reflected as being there and voting.

22 Q You're talking about the joint annual meetings that
23 occurred from 1982 until '87, is that what you're referring
24 to?

25 A Yes, sir.

1 Q Now had you ever talked to David Espinoza about NMTV
2 business in person as of February 28th, 1984?

3 A I don't recall that I had.

4 Q Had you ever talked to David Espinoza about NMTV
5 business by telephone as of February 28th, 1984?

6 A No, sir. I don't believe I had.

7 Q Had you ever corresponded with David Espinoza at any
8 time up until 1984 concerning NMTV business?

9 A Not that I can recall. As I, again, seeing the
10 minutes and, and being -- I believe I was at a meeting in
11 which David Espinoza was at sometime on, on or shortly before
12 this February, '84, time period.

13 Q But I am correct that you never wrote him a letter
14 concerning NMTV business as of February 28, 1984?

15 A I don't recall doing so, no, sir.

16 Q And I'm correct that you never wrote a letter to
17 Jane Duff or Paul Crouch concerning NMTV business where Pastor
18 Espinoza was copied up through February 28th, 1984, am I
19 correct?

20 A No, I don't, I don't recall having done that, no,
21 sir.

22 Q And am I correct that as of February 28, 1984, you
23 had never sent him a copy, even though he wasn't shown as
24 having sent a -- being sent a copy, regarding any letter that
25 was directed by you to Paul Crouch or Jane Duff?

1 A I don't recall, sir.

2 Q And Mr. Esp-- Pastor Espinova (sic) had -- Pastor
3 Espinoza had never written you a letter, had he, in this
4 period of time concerning NMTV business?

5 A Not that I recall, no, sir.

6 Q Did you know, as of February 28, 1984, how many
7 board meetings of NMTV that Pastor pass -- Pastor Espinoza had
8 not attended?

9 A I don't believe I ever was aware that he, that he
10 hadn't been to every meeting. And I believe I was of the, of
11 the understanding that he had been to every meeting that
12 they'd had.

13 Q Did you have any knowledge in February, on
14 February 28th, 1984, as to what the extent of Pastor David
15 Espinoza's pastoral responsibilities were?

16 A No, sir. I didn't know of the full extent of his
17 pastoral responsibilities.

18 Q Did you know how, how, how far his church was
19 located from Tustin?

20 A I know that it's located a couple of hours from
21 Tustin. I don't know -- I can't tell you when I learned that.
22 I could have been on or around this time frame. It could have
23 been earlier. I could have been later.

24 Q Were you aware -- excuse me, I didn't mean to cut
25 you off.

1 A It could have also been later, I just don't recall.

2 Q Were you aware of any conversations that Pastor
3 Espinoza had with Pastor -- with Dr. Crouch concerning his
4 time limitations to devote to NMTV before he joined the board?

5 A I don't know of any such discussions.

6 Q Did you have any knowledge in February of 1984 as to
7 how many hours each week or each month Pastor Espinoza had
8 devoted to his responsibilities as a director?

9 A No, sir.

10 Q Did you have any knowledge as of February, 1984, as
11 to whether Pastor Espinoza ever had received an agenda of a
12 board meeting in advance of the meeting?

13 A I, I guess I don't really know. I mean I've been
14 to, to these annual meetings that they had and I would get
15 notice of it. Whether or not I always got an agenda, I can't
16 tell you. And I could only believe that Pastor Espinoza was
17 provided notice as well, similar to my own experience in it,
18 but I never submitted notices to Pastor Espinoza about that.

19 Q But, but you have no knowledge -- you had no
20 knowledge, as of February, 1984, as to whether Pastor Espinoza
21 had ever received an agenda of an, of an NMTV meeting prior to
22 the meeting, am I correct?

23 A No, I don't have that, I don't know that, no, sir.

24 Q Do you have, did you have knowledge in February of
25 1984 as to whether Pastor Espinoza had ever received copies of

1 minutes to keep of NMTV board meetings?

2 A I believe I was aware that he did get copies of
3 minutes, yes, sir.

4 Q That would -- that's, that was your understanding?

5 A Yes, sir.

6 Q As of February of 1984, to your knowledge, was
7 Pastor Espinoza ever supplied copies of the various
8 applications that TTI had filed with the Commission?

9 A I believe he was, yes, sir. He was provided with
10 copies of those applications and materials.

11 JUDGE CHACHKIN: What's the basis of your knowledge?

12 MR. MAY: That I had been in a meeting where I
13 recall Pastor Espinoza being there, and he had materials and,
14 and among those materials was a copy of an application.

15 MR. COHEN: I, I'm not talking about materials that
16 were handed him out at the meeting to review. That's not what
17 I'm asking. I'm not talking about a packet of materials that
18 he was handed at the meeting to review. That's not my
19 question. My question is do you have knowledge as to whether
20 he was ever sent a copy of the applications that TTI had filed
21 with the Commission?

22 MR. MAY: Well, he had such material in his
23 possession. I honestly don't know whether it had been given
24 to him at that meeting or whether or not it had been sent to
25 him. So I guess I don't know specifically whether it was sent

1 to him or whether he just had it from another means.

2 JUDGE CHACHKIN: Did you examine the material that
3 Pastor Espinoza had?

4 MR. MAY: Yes. There was a very brief conversation
5 with Pastor Espinoza about some of the material, and among
6 them were applications.

7 JUDGE CHACHKIN: When was this?

8 MR. MAY: This was either shortly -- well, it may
9 have been in January of '84, it may have been in previous
10 January's. They had, as I said, a meeting every January in
11 that they brought in a number of parties and groups, and David
12 Espinoza was -- or Pastor Espinoza was at those meetings.

13 JUDGE CHACHKIN: Go ahead, Mr. Cohen.

14 BY MR. COHEN:

15 Q Now we've already established that you never
16 discussed your law firm's conflict of interest with David
17 Espinoza.

18 A No, sir.

19 Q Now did you have knowledge in February of 1984 as to
20 whether Pastor Espinoza had ever received, ever had mailed to
21 him copies of the corporation's income tax returns?

22 A I, I don't know if he did or not. No, sir, I don't
23 know.

24 Q And you had, did you have knowledge in 1984, in
25 February, as to whether Pastor Espinoza had ever received

1 copy, copies that were mailed to him of the audited statements
2 of TBN and, and TTI was included in those audited statements?

3 A I don't know if they were mailed to him, but this is
4 the same situation. I can recall being at a meeting at which
5 Pastor Espinoza was at, and among documents that he had were
6 financial materials. How they came into his possession, I, I
7 do not know.

8 Q And do you know whether Pastor Espinoza had ever --
9 was at -- strike that. Do you know as of February of 1984,
10 whether there, there ever sent to Pastor Espinoza, internal
11 audit information concerning NMTV or what was then called TTI?
12 Internal meaning material that was generated by Trinity?

13 A Mr. Cohen, I, I don't know. I mean, again, I was at
14 a meeting in which he had financial materials. Whether or not
15 this was of the first variety you described, being audited
16 financial materials, or whether it was unaudited materials,
17 that -- I don't know that I know the dif-- I think they were
18 audited, but I honestly don't know that I can tell you
19 specifically which it was.

20 Q Now up until the time that Pastor Espinoza resigned
21 from the board in August of 1990, you continued to advise NMTV
22 that it could claim a minority preference, am I correct?

23 A Yes, sir.

24 Q Now up until the date he res-- he resigned, to your
25 know-- to your knowledge, did he ever receive a draft or a

1 final version of the contract to sell the Odessa station?

2 A In my conversations with Mrs. Duff, she would
3 routinely express that she had sent David Espinoza materials,
4 and I can't segregate for you whether it was all materials,
5 whether it was this specific contract or not, but I know that,
6 that she has reported to me she did send him regularly
7 materials.

8 Q But, but you have no -- you can't testify that, that
9 she ever told you that she supplied him with a copy of the
10 Odessa contract?

11 A Other than what I've just described. I mean I
12 couldn't say that she ever told me that she didn't send a
13 copy, either.

14 Q But she never told you -- you have no recollection
15 she ever told you she did?

16 A She informed me that she routinely sent materials of
17 this nature to Pastor Espinoza.

18 Q Did she define what she meant by materials?

19 A -- regularly, so I understood those to be
20 applications filed at the FCC, minutes, financial materials,
21 internal memo about discussions of things the company was
22 doing, material or documents of that nature, sir.

23 Q So is it your under-- is, are you telling me then
24 that Mrs. Duff told you that she had supplied Pastor Espinoza
25 with copies of applications that were filed with the

1 Commission?

2 A Yes, sir.

3 Q And she told you that she had supplied Pastor
4 Espinoza the Odessa contract?

5 A Let me answer it this way. That, that she said she
6 would -- she sent him regularly filings made at the
7 Commission. A regular filing with the Commission would be the
8 Odessa assignment, which would have a copy of the contract.
9 So at least in that context, I feel that I can tell you, yes.
10 Whether or not it was just a separate, here's just the
11 contract, I, I don't know the answer to that.

12 Q And it's your testimony that she told you that she
13 sent him the application that was filed with the Commission
14 concerning the purchase of Odessa?

15 A Yes, sir.

16 Q Odessa.

17 A And other materials.

18 Q Now I want to ask you some questions about NMTV
19 continuing to claim the minority preference while Phillip
20 Aguilar was a director, and, and so that the, the record is
21 clear, he served as a director from August 15, 1990, until
22 April 20, 1993. That's the time frame. Now while Reverend
23 Aguilar served as a director, the minority preference was
24 claimed, am I correct?

25 A I believe that's true, yes, sir.

1 Q Now insofar as Reverend Aguilar is concerned, let me
2 ask you to look at -- let me just find something first. Look
3 at Bureau Exhibit 387, if you would. Now I ask you to look at
4 --

5 MR. TOPEL: Volume Six.

6 BY MR. COHEN:

7 Q -- page five. And ask you, Mr. May, if you would,
8 would you read into the record the date that that application
9 was signed by Mrs. Duff?

10 A It appears to be 1/28/92, which I guess is
11 January 28, 1992.

12 Q Now focusing on January 20 -- or January, 1992, am I
13 correct that you had knowledge as of that date that Phillip
14 Aguilar was carrying out his duties as a director, so that you
15 could advise NMTV that they could certify the claimed minority
16 preference?

17 A Yes, sir.

18 Q Okay. And that was your, that was your belief as of
19 January of 1992?

20 A Yes, sir.

21 Q And you believed that Phillip Aguilar was -- he had
22 acted consistent with the provisions of the, of Article Three
23 of the by-laws, which we talked about earlier? And if you
24 want to refer to that, read it again.

25 A No, Pastor Aguilar was a director who came to

1 meetings, participated in the discussions and votes of those
2 meetings, and generally directed the affairs of the company.

3 Q And what was your -- the basis for what you just
4 told me. What was -- what is or what was the basis for what
5 you just said?

6 A Material I had seen, which included minutes of
7 meetings of the company; conversations with Mrs. Duff in which
8 she informed me of the activities of the company, including
9 Pastor Aguilar's participation; and at, as of January of '92,
10 I had been involved in telephone conference calls in which
11 Pastor Aguilar participated, and I had also been in meetings,
12 face to face meetings in California, in which Pastor Aguilar
13 participated, and at which business and the activities of
14 National Minority were discussed.

15 Q Isn't it true that as of September, 1991, that you
16 believed that Phillip Aguilar was not carrying out his duties
17 as director?

18 A No, I can't say that. I know that at that time
19 frame, I and my partner had been personally frustrated by
20 Pastor Aguilar and some of the things we wished he had done,
21 but I can't say that I was ever of an understanding that he
22 wasn't fulfilling his responsibilities as a director of the
23 company.

24 Q Well, I'd like you to look at -- now you have to
25 switch to Glendale. I'd like you to look at Glendale Exhibit

1 197.

2 A I'm sorry, did you say 197 or 97?

3 Q Glendale 197.

4 A I have it.

5 Q Yes.

6 A Do you want me to -- would you like me to read it?

7 Q Read it to yourself. It's in the record, it's
8 evidence, so you don't have to read it, but you just, just
9 read it to yourself and then tell me when you have read it.

10 MR. SHOOK: Just so the record can be clarified, I
11 know we're talking about the same letter, but I believe your
12 Exhibit 197, Glendale's 197, was not admitted, and what we're
13 talking about is Bureau Exhibit 376.

14 MR. COHEN: Oh, excuse me. I didn't realize that
15 was a common exhibit.

16 MR. SHOOK: It's the, it's the same letter.

17 MR. COHEN: I didn't, I didn't understand that.

18 JUDGE CHACHKIN: It's the same letter, Mr. May, is
19 it not?

20 MR. COHEN: Yes, as long as it's identified by
21 Mr. Shook there, that's fine.

22 Mr. SHOOK: I didn't know -- identify as Bureau
23 Exhibit 376.

24 MR. COHEN: Thank you, Mr. Shook. Thank you for the
25 help.

1 BY MR. COHEN:

2 Q Have you read it?

3 A Just finishing it, sir. I've read it, yes, sir.

4 Q The letter will speak for itself and it's evidence,
5 and I'm not going to debate the letter with you. I just want
6 the record to be clear. After you've had an opportunity to
7 review that letter, it's still your testimony that as of
8 October 1, 1991, you believed that Dr. -- you believed that
9 Phillip Aguilar was carrying out his responsibilities as a
10 director? That's your testimony?

11 A Yes. I can say that this October 1 letter, however,
12 does express the frustration that my partner, Joe, and I had
13 discussed. Joe Dunne sent the letter out. And, and so it
14 expresses our frustration along that line, yes, sir.

15 Q But --

16 A There --

17 Q You can -- it desc-- it sets forth your res-- your
18 frustration along what line?

19 A Along the lines of our difficulty in obtaining from
20 Pastor Aguilar material regarding his prior criminal
21 conviction. We had not been aware that he had a prior
22 criminal conviction and he had not previously provided that
23 material to us. When we became aware of it, we disclosed it
24 to the agency and then wanted to forthwith get a complete and
25 total submission on the record, and did so. However, to do

1 so, we had to use other means than just retrieving material
2 through Reverend Aguilar. And that was, frankly, frustrating
3 for us, and so we were certainly expressing that frustration.

4 Q Was Reverend Aguilar's refusal to send you this
5 information consistent with him carrying out his duties as a
6 director?

7 A Well, I, I think there was a lot of play in Reverend
8 Aguilar at that time, and I, I don't know that it was so much
9 him discharging his responsibilities at NMTV as opposed to
10 just his tweaking, you know, Colby May or, you know, the
11 lawyers, as it were, in Washington, the guys in the blue
12 suits, if you were.

13 Q Well, if you can answer the question, I'd be
14 grateful. Do you believe that the difficulties that are
15 expressed in that letter concerning Pastor Aguilar's
16 unwillingness to provide the information regarding his
17 criminal conviction, is that consistent with Reverend Aguilar
18 carrying out his duties as a director?

19 A I, I suppose we were raising a question mark in that
20 line as of October 1, 1991, yes, sir.

21 Q You were raising a question mark?

22 A Yes. As to what --

23 Q So you were raising a question mark as to whether
24 Reverend Aguilar was carrying out his duties as a director?

25 A In the sense that he didn't provide us material with

1 regard to his criminal record, yes, sir.

2 Q Now this letter talks about more than, than, than
3 just Pastor Aguilar's refusal to supply the information
4 concerning his criminal record, am I correct?

5 A There is a reference to the number of meetings that
6 Pastor Aguilar participated in and the like. But shortly
7 after this, I became aware that, in fact, what's characterized
8 in, in this letter is not accurate, so.

9 Q What's un-- what's inaccurate?

10 A The number of meetings that Pastor Aguilar is
11 purported to have attended. It was actually in -- I mean
12 there was more meetings than were, were reported here, and he,
13 he attended most of all those meetings.

14 Q Well, the record will speak for itself. All the
15 minutes are in, and I'm not going to debate that with you.
16 But --

17 A I didn't mean to say just minutes, I mean there were
18 meetings at which the business of the company was discussed,
19 which we subsequently became aware of, and at which Pastor
20 Aguilar's participation was clear.

21 Q Are there documents -- are you suggesting that there
22 are documents concerning regular -- Pastor Aguilar's
23 participation in NMTV business that are not board minutes?
24 There are other documents, is that what you're telling me?

25 A There are other meetings at which I don't know

1 whether in each case documents came out of those meetings or
2 not, but there were other meetings.

3 Q Are there any documents memorializing Reverend
4 Aguilar's participation in NMTV matters that are not board
5 minutes or meetings of the board?

6 A I, I -- yes, sir, I believe there are.

7 Q And, and there are, there are documents that
8 memorialize this?

9 A I believe that there are notes or other letters and
10 material that, that reflect the outcome of meetings that
11 happened. I, I would, for -- yes, sir.

12 Q Okay. Well, we'll, we'll let the record speak for
13 itself on that. Now insofar as your, your state of mind and
14 Joe Dunne's state of mind on October 1, 1991, Joe Dunne
15 certainly believed that Reverend Aguilar, as of that, as of
16 that date, had only attended two out of five board meetings.
17 Is that correct?

18 A That's what it says, yes.

19 JUDGE CHACHKIN: All right. We'll be in recess till
20 9:30 tomorrow morning.

21 MR. COHEN: Very good, Your honor.

22 (Whereupon, a recess was taken at 4:05 p.m. until
23 December 21, 1993, at 9:30 a.m.)
24
25

CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

IN THE MATTER OF TRINITY BROADCASTING OF FLORIDA, INC.

Name AND GLENDALE BROADCASTING COMPANY

MM DOCKET NO. 93-75

Docket No.

WASHINGTON, D.C.

Place

DECEMBER 20, 1993

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 2937 through 3127, inclusive, are the true, accurate and complete transcript prepared from the reporting by MARYKAE FLEISHMAN in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

December 30, 1993

Date

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